

## INTERNATIONAL SEARCH REPORT

19 Rec'd [REDACTED] 04 OCT 2004

International Application No

PCT/US 03/11778

## A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A61B17/072 A61B17/115 A61B17/00

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61B

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category <sup>a</sup>	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	US 6 045 560 A (HAIN MATTHEW ET AL) 4 April 2000 (2000-04-04) the whole document -----	15-31, 47-54
A	US 5 895 412 A (TUCKER ROBERT) 20 April 1999 (1999-04-20) the whole document -----	15-31, 47-54

 Further documents are listed in the continuation of box C. Patent family members are listed in annex.

## ° Special categories of cited documents :

- "A" document defining the general state of the art which is not considered to be of particular relevance
- "E" earlier document but published on or after the international filing date
- "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- "O" document referring to an oral disclosure, use, exhibition or other means
- "P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search

Date of mailing of the international search report

16 February 2004

19.02.2004

Name and mailing address of the ISA

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## INTERNATIONAL SEARCH REPORT

International application No.  
PCT/US 03/11778

### Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1.  Claims Nos.: 1-14 because they relate to subject matter not required to be searched by this Authority, namely:  
**Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery**
2.  Claims Nos.: 55-74 because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:  
**see FURTHER INFORMATION sheet PCT/ISA/210**
3.  Claims Nos.: because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

### Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

**see additional sheet**

1.  As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2.  As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3.  As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4.  No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

**1-14**

#### Remark on Protest

The additional search fees were accompanied by the applicant's protest.  
 No protest accompanied the payment of additional search fees.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

Continuation of Box I.1

Claims Nos.: 1-14

Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery.

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Continuation of Box I.2

Claims Nos.: 55-74

In view of the large number and also the wording of the claims presently on file, which render it difficult, if not impossible, to determine the matter for which protection is sought, the present application fails to comply with the clarity and conciseness requirements of Article 6 PCT (see also Rule 6.1(a) PCT) to such an extent that a meaningful search is impossible.

The expression "a body tissue property enhancing system configured and adapted to non-mechanically enhance ..." (claim 55) is unclear and not supported by the description in its broad meaning. The claims 55 - 74 do not unambiguously and in a positive manner define the subject-matter for which protection is sought.

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. claims: 15-31, 47-54

The independent claims 15 and 47 define a surgical stapler and a stapler cartridge comprising a biocompatible wound closure material dispensing system. The objective problem solved is to use an adhesive in order to enhance the body tissue properties.

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2. claims: 32-46

The independent claims 32 and 42 define a surgical stapler comprising a tissue cauterizing system. The objective problem posed is to use electric energy in order to enhance the body tissue properties during stapling.

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## INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 03/11778

Patent document cited in search report	Publication date		Patent family member(s)	Publication date
US 6045560	A 04-04-2000	US	5542594 A	06-08-1996
		US	5908427 A	01-06-1999
		US	5964774 A	12-10-1999
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US 5895412	A 20-04-1999	AU	7398196 A	30-04-1997
		WO	9713461 A1	17-04-1997
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